App. F. IX-4

Previous References 192[illegible]-30 (Law)

File No. 1115-4

Serial Nos. 102

Later References
L. Sr. 1-30 (1929)

Preserve
M
3/1/43

General and Revenue Secretariat.

Serial Nos. Nil.

Part B for June 1930

SUBJECT

Act to declare and fix rights by the Land Mortgage Bank.

L. to the Asst Govt Coachin
No 6889/9 2-6-30.
Macleod to G. Secretary
Opinion as to in media

M Hunter
21.6.30

4750.

App. F. III—2].

General and Revenue Secretariat | Confile No. 145 of 1929

Serial No.

Letter no 5346 dated 28th march 1930 from the Registrar Co-operative Societies forwarding a Draft Debenture bond to be issued by the Land Mortgage Bank for favour of opinion

clause 5 of the Conditions referred to in the Draft requires consideration. It implies that the discharge given by one of several joint promisees discharges the Bank from liability to other joint holders of the debenture. This rule, though it is in conformity with the view held by the Madras High Court in 20 Mad 461 and 36 Mad 544, has not been approved by the other High Courts and has been expressly dissented from in 22 All. C.C.R 148 where it is held that in the absence of proof of an agreement between the Co-lessors that the rent paid shall be held jointly each being entitled to the whole or of a mutual grant of authority between them to receive the rent the tenant by payment to one of the lessors is not discharged from his liability to pay to the other lessors.

It is therefore necessary that in the case of two or more persons registered as joint holders of a debenture the

Note—Contn. Sheet

WD 066—GPB—80,000—26-7-29

4120 2

App F. III-21

General and Revenue Secretariat | Confl File No. 145 of 1929

Serial No.

Bank should enter into an agreement between them & the Land Mortgage Banks as laid down in the Chief Court decision referred to above.

The draft debenture bond may, if approved, be sent to the Govt Advocate for scrutiny.

23 inter. put up

Mp 5/4/30

(L.A.)

2 5/4

Forwarded with Compliments to the Government Advocate for favour of scrutiny of the draft debenture bond & early return.

B.O.

Registrar
Legal Remembrancer
& Secretary to Govt
Law Dept

G.O. No. Mp 72 829 dt 22/4/30

GOVT. ADVOCATE'S OFFICE 22 APR 1930 BANGALORE.

7. No. 795/27.30. dt 22.4.30

I will see me 21.4.30

Returned with compliments

I have scrutinized the draft debenture bond It requires to be altered in the manner suggested below in view of the deficiency in the bye-laws framed under Sec.53 of Regulation V of 1929. This Section empowers a Co-operative Land Mortgage Bank to make bye-laws or to alter the same, subject to the previous approval Government and the Clauses appearing in the Section provide for the making of bye-laws for certain specified objects. Clause (k) refers to "the manner & conditions

No. Mp. 487 29.30 dt 30.4.30

Note—Contn. Sheet

WD 066—DPB—40,000—26-7-29

Serial No.

of redemption ..... of debenture bonds". The addition of some more Bye-law after Bye-law 53 and numbered as 53A & 53B seems to be necessary to provide for cases like the present. Any provision to be made in this connection under the law must be by way of amendment of the Bye-laws. Clearly no -- provision in this regard can be made under Sec.66 of the Regulation, which empowers Government to make rules to carry out the special provisions relating to Co-operative Land Mortgage Banks, especially for the particular purposes mentioned therein. This is obviously so, as the rule-making power of Government under this Section cannot extend to cases which -- could be covered under Sec.53 and for which bye-laws are required to be made under the Regulation. The bye-law making power and the rule-making power are mutually exclusive in their character.

2. Then, again, no provision in the conditions relating to the debenture bond itself can operate in derogation of the specific provisions contained in other legal enactments. Consequently, power should be taken in the Bye-laws themselves to enable the Bank -

(1) to obtain an effectual discharge on behalf of all joint-holders of the principal money and interest secured by such debentures;

(2) for payment of dividends accruing on such debentures to the first of the persons named in such debentures.

Such a procedure would make the position a perfectly legal one both to the Bank and to the ----

NOTE—Contn. sheet.

WD 066—GPB—80,000—26-7-29

Serial No.

to the debenture-holders, mainly because these provisions would form part of the law relating to the subject. The main provisions relating to the issue of debentures are mutatis mutandis the same as those applicable to shares in Co-operative Societies or Joint Stock Companies according to the laws governing them. In the case of Joint Stock Companies, provisions of the kind mentioned above are invariably embodied in what is known as Table A in the first Schedule annexed to the Mysore Companies Regulation thus: "(Clause 100). If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share".

Then as regards notice to joint-holders the following provisions are found in the same Table:-

"(Clause 101). Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

(Clause 114). A notice may be given by the Company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share".

These provisions have been taken, word for word, from the analogous Table A of the British Statute, viz., The Companies (Consolidation) Act of 1908, which has been recently re-enacted with certain amendments.

3.

WD 066—GPB—80,000—26-7-29

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App. F. III—2]

'General and Revenue Secretariat. | File No. | of 192

Serial No.

3. Provisions of the above nature should be incorporated after Bye-law 53 of the Bye-laws framed under Sec.53 of the Regulation. The following is a draft of the same:-

"(53A). If several persons are registered as joint-holders of any debenture, any one of them may give effectual receipts for the principal money and interest secured by such debenture as also for any dividend payable on such debenture."

"(53B). Any notice required to be given by the Bank to the joint-holders of a debenture whether in respect of redemption of the debenture or -- dividend payable thereon may be given by giving the notice to the joint-holder named first in the register in respect of the debenture".

4. If the Bye-laws are amended as above and the approval of Government obtained therefor under Sec.53 of the Regulation, then the difficulty arising from the decision in 23 M.C.C.R. 148 will have been --- surmounted. It is only after the amendments are put through, that Condition 5 in the draft debenture bond would be valid. I may also suggest that the wording of Condition 5 may be made conformable to that of the additional Clauses suggested above for inclusion -- after Bye-law 53.

K. Ramachandra Rao

Government Advocate.
30/4/1930.

Send a Copy of G.O. Comm.

NOTE—Contn. sheet.

WP 966—GPB—80,000—26-7-29

Draft print

No. S. 3[illegible]

DEPARTMENT OF [illegible]

GOVERNMENT OF MYSORE.

Telegraphic Address:
"CO-OPERA"
BANGALORE

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE,

Dated, Bangalore, 27th March 1930.

FROM

K. H. RAMAYYA, Esq., B.A., Bar-at-Law,
Registrar of Co-operative Societies in Mysore,
Bangalore.

To

P. Mahadevayya, Esq., B.A. B.L.,
Secretary to Government,
Law Department, Bangalore.

Sir,

I have the honour to forward herewith a copy of the form of debenture bond proposed to be issued by the Mysore Co-operative Land Mortgage Bank, Ltd., and also a copy of the Mysore Co-operative Societies amendment Regulation No.V of 1929, a copy of Rules thereunder and a copy of the byelaws of the Bank approved by Government and to request that your valuable opinion in the matter of the form of the debenture bond may kindly be furnished at a very early date. Sections 56 and 57 of the Regulation, Rule 2 of the Rules and byelaws 28 to 36 have a bearing on the debentures.

I have the honor to be,
Sir,
Your most obedient servant,

K H Ramayya

Registrar.

Appendix F G—1

SUBJECT.....

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Diary No. of letter replied to.....

Section Law

File No. 145.29

Serial No. 2

No. 1887 Encl 7

General and Revenue Secretariat

( )

the *192*

To

The Registrar of Cooperative Societies in Singapore

Date of issue 2/6/30

Signed by M. Nos

Sir,

With reference to your letter No: 5346 dated 28th March 1930 forwarding for opinion a draft debenture bond proposed to be issued by the Land Mortgage Bank, I have the honour to state that the draft was scrutinized by the Government Advocate whose Opinion in the Copy of

List of enclosures.....

Copied by.....

Examined by.....

matter is forwarded herewith for your information.

The enclosures to your letter are herewith returned

Thereek

D. M.

L. R

DMF

W/C

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The Registrar of Co-operative Societies in Mysore,

Bangalore.

With reference to your letter No.5346 dated 28th March 1930 forwarding for opinion a draft debenture bond proposed to be issued by the Land Mortgage Bank, I have the honour to state that the draft was scrutinised by the Government Advocate copy of whose opinion in the matter is forwarded herewith for your information.

The enclosures to your letter are herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

For Legal Remembrancer &
Secretary to Govt.,
Law Department.